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COMMITTEE ON REVENUE
March 3, 2005
LB 763, 723, 542

The Committee on Revenue met at 1:30 p.m. on Thursday, March 3, 2005, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 763, LB 723, and LB 542. Senators present: David Landis, Chairperson; Tom Baker; Abbie Cornett; Ray Janssen; Don Preister; and Ron Raikes. Senators absent: Matt Connealy, Vice Chairperson; and Pam Redfield.

SENATOR RAIKES: Good afternoon. Welcome to this hearing of the Revenue Committee of the Nebraska Legislature. We are pleased you could be here this afternoon. We are going to hear three bills, posted on the outside of the hearing room in the order listed. As usual, it's old-hat by this time, please fill out a little form and throw it in the box, and when you start talking, tell us your name and spell it for us and turn off your cell phone and...

SENATOR JANSSEN: Pagers.

SENATOR RAIKES: ...pagers. Okay. The first bill this afternoon...

SENATOR JANSSEN: No smoking.

SENATOR BAKER: And please behave yourself.

SENATOR JANSSEN: Don't fire up your pipe.

SENATOR RAIKES: Don't fire up your pipe, yes. All right. We have the preliminaries...oh, our committee. To my far right, Erma James, our clerk; Senator Baker, District 44; Senator Ray Janssen, District 15; Senator Connealy, may show up.

GEORGE KILPATRICK: No.

SENATOR RAIKES: No, won't show up. Well, in passing we'll mention Connealy then. George Kilpatrick is our legal counsel. Our illustrious Chair...

GEORGE KILPATRICK: He will show up.

SENATOR RAIKES: ...will show up--Dave Landis, District 46.

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Senator Redfield will not show up; she's gone; she's from Omaha. Ron Raikes, District 25; Abbie Cornett, District 45; and to my far left, Don Preister, also Omaha, District 5. Okay. We've got everyone introduced and so we will next introduce Senator Pat Engel--Leo "Pat" Engel--who will introduce LB 763. Senator Engel, please.

LB 763

SENATOR ENGEL: Thank you, Acting Chairman Raikes. First of all, I want to let you know that LB 763 I believe is the last bill introduced this year, if I'm correct. And this morning my first bill we introduced this year, a revisor bill, was mine also. So whether you go by the first shall be last or the last shall be first, I covered both ends. But I hope it works today.

SENATOR RAIKES: So that one didn't get killed but this one is still up, right?

SENATOR ENGEL: (Laugh) Anyhow, I'm Pat Engel, you spell that E-n-g-e-l, and I represent the District 17 in northeast Nebraska. LB 763 would create a way for the state to recoup the property tax relief given to those who qualify for a whole or partial exemption of the valuation of their real property. Currently, a homestead exemption is available to three groups of people: persons over age 65, certain disabled individuals, and certain disabled veterans and their surviving spouses. All exemptions are based on various criteria, such as age, degree of disability, income, and the value of their property. The Nebraska Department of Revenue has a comprehensive forum that includes instructions and charts as to who may qualify and what income must be included to qualify for an exemption. Once certain requirements are met, the state reimburses the counties and other governmental subdivisions for the taxes lost due to homestead exemptions. The latest figures from the Department of Revenue are \$49,750 exemptions, totalling \$50,425,407 for fiscal year 2004. Amended returns are still arriving so those numbers are strictly approximations. LB 763 states that county treasurers would file a lien on the parcel each year an exemption is granted. The total amount would be due to the state upon sale or other transfer of the homestead. The bill would be effective for all

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exemptions reimbursed by the state on or after January 1 of 2006. I have drafted an amendment, number 183, which states there must be proceeds from the sale of the property after closing costs and any other debt secured by the property. (Exhibit 1) In other words, we are not asking heirs to dig into their own pocket to repay the lien if there are no proceeds. And I believe that's been passed out to each one of you there. My purpose in introducing this bill is to allow people to live in their own home with an exemption if they qualify until there is a sale or transfer of the property. Then the state would recoup the money allowed as property tax relief. In many cases, the valuation of the homestead will have increased a great deal and there will still be proceeds for the selling of the estate. The situation is, the...many people cannot afford to live in their own homes through no fault of their own. Just over the years, the house that they purchased 40 or 50 years ago, because of revaluations and so forth, has increased to the point that the property tax is probably more...you know, is more than they probably paid for half of the house, so it's just a matter of, through no fault of their own or they've had other circumstances in their life where they cannot afford to pay the taxes. And that's handled, of course, in how they do it now. But I know there are certainly many details to be worked out and I'm willing to listen to everybody's concerns and suggestions. In fact, I contacted different entities who might be interested in this bill who might have concerns with it, and I think some of them are testifying here today, and so I do welcome their concerns and their suggestions. But I firmly believe that the concept is a very viable one, in that we don't want to penalize anyone receiving these exemptions but I also feel very strongly that the taxpayers should not be subsidizing anyone's estate. And I'll be happy to answer any questions and urge you to advance LB 763 to General File. Before you answer any questions, I would like to have you refer to the fiscal note. I think you have that in your file. The fiscal note shows that in 2006-07, we should receive about \$835,000. Fiscal year '08, \$3,037,000; fiscal year '09, \$5,716,000; so there is a lot of money we're talking about that perhaps could be used for other very worthwhile purposes. Now I would be glad to answer any questions.

SENATOR RAIKES: Thank you, Senator Engel. Questions?
Senator Janssen has one.

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SENATOR JANSSEN: Well, Senator Engel, well, right now, I mean, if you get that homestead exemption, you never have to pay any of that back.

SENATOR ENGEL: No. No, you don't.

SENATOR JANSSEN: I mean, it's just a...of course, property taxes on it or most of that is local anyway.

SENATOR ENGEL: Well, it's local tax, but, you see, we...the state reimburses the counties.

SENATOR JANSSEN: The state...I realize that. The state reimburses...

SENATOR ENGEL: Yeah, right.

SENATOR JANSSEN: ...for that.

SENATOR ENGEL: Out of general funds.

SENATOR JANSSEN: So, um-hum. All right. I think I see what you are trying to do here. Thank you.

SENATOR RAIKES: Senator Baker has a question.

SENATOR BAKER: Thank you, Senator Raikes. Senator Engel, do you think people...maybe this would be a detriment to people taking this in the first place, do you think, the homestead exemption? This is an innovative idea, I must admit. I just...I don't know how to take this. Would they...

SENATOR ENGEL: Well, they might, but I don't believe so because I think if they look at the fairness of it, I don't think they should anyhow because if they needed to stay in their home I think they will still take advantage of it because they look...

SENATOR BAKER: Those people would, no doubt.

SENATOR ENGEL: But if you look at the fairness of it... I know, and I've talked to different people who have called, and so forth, and after I explained it to them they still

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didn't want it to pass, but they understood it, that all we're doing is we're not doing anything to jeopardize anybody that needs it. But as far as passing on that property to the heirs intact, I don't think is a fairness thing. I think if whatever we could recoup here, any excess over that would go to their estate; it would go to their estate, so, I mean, they would get what's left. But I think our primary concern is to keep the people in their homes that need it, not those that might gain from it. And that's the purpose of this.

SENATOR BAKER: This is effective 1/1/2006...

SENATOR ENGEL: Right.

SENATOR BAKER: ...and thereafter. I mean, if they had 10, 12 years of homestead exemption tax reimbursement, they would have to pay that back.

SENATOR ENGEL: Well, it would be paid from the proceeds; only from the proceeds, yeah.

SENATOR BAKER: I know, but it could amount to a number of years of homestead exemption.

SENATOR ENGEL: Yeah. And it could exceed the value of the property, depending on how long you live there. But that's not the point; it's just to get what the difference is.

SENATOR BAKER: Okay. That's the picture. Thank you.

SENATOR ENGEL: You're welcome.

SENATOR RAIKES: Senator Cornett has a question.

SENATOR CORNETT: If the owner of the property is still alive and sells the property and is planning on using that money to go into a nursing facility or for their medical care because they can no longer care for themselves, are you going...is there any exemption for that or would they still be required to pay the money back.

SENATOR ENGEL: Well, there isn't any exemption in there for this right now because the thing is, first of all, if they do go into the nursing home and if they after six months

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whatever property they have would be sold if they're relying on Medicaid funds. So all...

SENATOR CORNETT: I mean, if they're not relying on Medicaid...well, they probably would be, then they wouldn't need to sell their home.

SENATOR ENGEL: Well, if they are not relying on Medicaid funds, then we're not involved at all, see.

SENATOR CORNETT: Yeah.

SENATOR ENGEL: But, say, they are relying on Medicaid funds, well, so, we're going to get it anyhow so we get this money back, and then they might start drawing Medicaid funds sooner, you know, that they can use the balance of it for that. I mean, that's a separate deal. So I don't think we're going to...still don't think we're going to penalize anybody; I really don't, in my own mind. I think probably for people...

SENATOR CORNETT: So they just go onto Medicaid sooner and pay back what they had

SENATOR ENGEL: Well, right. It would...

SENATOR CORNETT: ...deferred from the state.

SENATOR ENGEL: ...from the state for the...when that property is sold, yeah, or transferred; or transferred.

SENATOR LANDIS: Senator Janssen.

SENATOR JANSSEN: Pat, does...I know the state reimburses the county, but do they get 100 percent reimbursement?

SENATOR ENGEL: Yes.

SENATOR JANSSEN: It is 100 percent. I was thinking if it wasn't 100 percent, then the county should have a crack at it also...

SENATOR ENGEL: Yeah. No.

SENATOR JANSSEN: ...before the state got it (inaudible).

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SENATOR ENGEL: It's 100 percent reimbursement.

SENATOR JANSSEN: Okay. (Inaudible)

SENATOR LANDIS: Senator Baker.

SENATOR BAKER: One other question here. On top of page 4, "Repayment shall become due and payable upon the sale or other transfer..." Say, a parent transfers this to children, what do we establish as a sale price or are you talking about assessed valuation maybe or just a fair market value? Who is going to establish that I wonder?

SENATOR ENGEL: Well, I would think, and of course that's something that will probably have to be ironed out here, but I would think it is what ever the property is worth at the point, at that time.

SENATOR BAKER: As assessed valuation, Senator?

SENATOR ENGEL: No, not assessed, not particularly; I think...no, not assessed. I think it would be...

SENATOR BAKER: Well, so you're going to have to come up with a fair market value.

SENATOR ENGEL: You would have to probably come up with a fair market value. I am assuming that. That's a dangerous word, I know, but it's an assumption. It's a...

SENATOR BAKER: Okay.

SENATOR LANDIS: Senator Cornett.

SENATOR CORNETT: One more question. When you said the amount owed could be more than the land was worth if they had taken a number of years of exemptions, would the estate then be liable?

SENATOR ENGEL: No. No, that's in...

SENATOR CORNETT: Just for the...

SENATOR ENGEL: No, that's in that amendment there. No one

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would be liable for...if that occurred.

SENATOR CORNETT: For anything over the amount of the assessed value.

SENATOR ENGEL: No. No, we're not putting any burden on any heirs. We're just not giving them all they possibly would want.

SENATOR CORNETT: All right.

SENATOR LANDIS: Other questions. Thank you, Pat. Next testifier in favor. In opposition? And as soon as I'm back from the dentist, by the way, with this mouthful of implements which did not permit me to have conversation and discover the fact that I was going to be late, I now have to run up to the Appropriations Committee. Can I hand it back to you, Ron?

SENATOR RAIKES: Sure. Welcome, Larry.

LARRY DIX: Welcome. Glad to be here, Senator Raikes. Senator Raikes, members of the committee, for the record my name is Larry Dix, D-i-x, executive director of the Nebraska Association of County Officials. And we've had quite a little bit of dialogue within the county officials, both as...actually, the assessors, treasurers, and clerks on this bill. And when we look at this, there are some interesting concepts and certainly Senator Engel brought some forward. There are some that read it that are looking at the homestead exemption process each and every year as people apply and realize that if the house was sold prior to August 15, then corrections could be made to the tax roll to that. And so we were a little bit uncertain if the intent of the bill was to close the loophole for the properties that were sold just after August 15. But from hearing Senator Engel's opening, my understanding is this is a homestead exemption that has accumulated over multiple years that can add up to this. So there are just a couple of different ideas that we have in going through this process. On page 4, it talks about the county treasurer shall file a state tax lien if the homestead exemption and the property is sold. State tax liens right now in that instance would be taken...the county treasurer would present those to the Secretary of State so that there would be this amount of

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paper that goes up to the Secretary of State. Then the Secretary of State...and along with that filing there is a \$6 filing fee. Then the Secretary of State turns around and takes that paper and resubmits it back to the county clerk or to the register of deeds for filing. And so the Secretary of State...and the \$6 is divided. The Secretary of State keeps \$3 of it and the county receives \$3 of it. Our understanding, if tax liens were really a method to help in this situation, there would be a state tax lien filed each and every year that somebody applied for a homestead exemption. So year after year after year we would go through this process of filing a state tax lien, and so those would continually stack up against that property until such time when that property was sold. In doing so, it's our belief that each time the county would...in this instance, the county would probably be responsible since it says the county treasurer shall file. The county would be responsible for the \$6 filing fee. And if we look at that and if we use the number of homestead exemptions that are filed each year, approximately 50,000 of those \$6, there is \$300,000 that would be coming out of the county's budget to file those state tax liens. Now, granted, we understand we get 50 percent of those back so it would really be a \$150,000 hit to county government year after year after year for as long as that goes on. Then, of course, once the property is sold we would have to go through and terminate those tax liens. Our understanding, we would have to terminate it. And, of course, there is no cost to terminate it other than the workload within the counties. And so somewhere there is going to be about 50,000 documents filed across the state each and every year, and then, of course, upon termination, each and every one of those would have to be terminated. That's as we read it. We believe that to be quite problematic in the process of just moving a lot of paper. The other thing that would happen certainly throughout this process it's our understanding, our belief, that if this tax lien was filed on the property, those tax liens will show up on credit reports because when there are credit searches, when they're searching for your credit, they go in and look at a piece of property, those will show up. That will show as a lien against your property. So I think that probably would be a little bit problematic for a number of citizens since that will start to show up on each and every piece of property. The other thing that happens with state tax liens, state tax liens when they're filed

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there is no requirement to put a legal description on a state tax lien. So somewhere, if we don't have that legal description identified against that state tax lien, when that lien comes back down to the counties to be filed, it's going to be...we're going to have a little bit of research and some time and energy expended to make sure we match that up with the proper document. I checked with the Secretary of State's Office and they pretty well confirmed that the state tax lien does not have to have a real legal description attached to it. So this, too, opens the door for a little bit of potential problems there. One of the questions that came up is during the selling process do the real estate agents, are they going to have to notify the potential buyers that there could be a state tax lien on your property because you had filed and received a homestead exemption. So that's sort of the state tax lien side of the picture that we think is a little bit problematic. From the other side of it, the county treasurer...we're a little bit concerned with some of the timing also. When the actual process happens and homesteads are filed, that happens in the assessor's office when the property is sold, information comes back to the assessors office on a transfer statement. The county treasurer who was filing the lien doesn't necessarily know in a timely fashion if that property had a homestead exemption on it. They're made aware of that at the time of year when the assessor has to certify the tax roll which typically is at the end of the year. So there are some timing elements involved there that we think the way this is written really, really could be problematic. We also look at...and one other thing that is in there, when we're starting to look at the exemption, if somebody sells it midyear, then are we going to have to look at a portion of a year for that exemption to be reimbursed? Is it the full year, all or none, if somebody owns that property only for a portion of the year? So that we look at. Again, currently the software that is out in all of those counties has no ability to calculate homestead exemptions on partial years. It is simply the full year or nothing at all. So yesterday Senator Engel and I had a conversation really about this, and he said, you know, Larry, is there any ideas that you can come forward with. And sort of in short notice it's a little bit difficult but one idea that was thrown around is the homestead exemption application right now, that statement, you could have on that statement a statement to everybody who is applying for a homestead that says, if

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you sell your property you will have to repay the homestead amount back to the state. I think that would be a statement you would have to include on that form so that when people are filing for a homestead exemption, up front, you would disclose that this possibility exists. And since that homestead application document always has a legal description, it would take care of a little bit of that. The transfer statement that currently comes into the register of deeds, and a copy is sent to the Department of Revenue and a copy goes to the assessor, might have to have a box on it that would indicate if at time of transfer, if there is a homestead...if that property has a homestead exemption on it, and if so, the state receives a copy of that. Then at the time when the transfer actually happens, the state could match the transfer statement back to the homesteads by way of tying it together through the legal descriptions that are on there and the person is sent a statement from the state that says, this money is due the state. If not, then the state could file a state lien against that person at that time. But simply the treasurer does not have the adequate information to go through that problem. So, anyway, if the Revenue Committee finds merit in this idea, I think there needs to be quite a little bit of time to work through and understand not only how the current process really, really works, but how much of a revision would take place in the current work flow and paper flow process if we would move forward with that. So, with that, I thank you for your time and try to answer any questions.

SENATOR RAIKES: Thank you, Larry. Questions for Larry? So I hear your concerns expressed as technical ones...important ones, but technical ones, and not really substantive with the idea. You said, if the Revenue Committee decides this idea has merit then we need to address these technical. You stopped short of commenting on the merit of the idea.

LARRY DIX: The...and the merit of the idea, I think fundamentally...I guess when we initially looked at it, some of what we looked at would say, do we actually have taxpayers out there who are receiving a benefit? We were looking at it more from a one-year point of view. Are there taxpayers out there who are receiving the benefit of homestead exemption because they purchased a home where somebody had a homestead exemption. They purchased it after

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August 15 so they get the benefit of the fact that someone else had a homestead exemption on it. There is that possibility out there, and that exists today because the assessor can make those corrections and catch those things up until about August 15, and then things really start getting locked down. So, Senator Raikes, if you owned the home and you had a homestead exemption on it, and I purchased that home September 1, then for that one year I would actually gain the benefit of your homestead exemption. That's how it works today.

SENATOR RAIKES: Okay. I...

LARRY DIX: So that's really somewhat where we were looking at, really digging into a partial year and my understanding is Senator Engel is looking at this over a number of years, so it changes a little bit of what we were looking at.

SENATOR RAIKES: An interesting point because I hadn't thought about that particular...as I see this idea, we're looking at whether or not there are unintended beneficiaries, so to speak, of the homestead exemption program. And I think Senator Engel was more...if I interpret it correctly...was more looking at heirs who would benefit when in fact they were not the ones that were being targeted by the program. Are there, in your view, unintended victims of this proposal?

LARRY DIX: Well, you know, again, here, I guess it goes back to where we get sort of caught up in that partial year. I don't know if I would say there would be unintended victims; I don't know that.

SENATOR RAIKES: Okay. Any other questions here? I see none. Thank you, Larry.

LARRY DIX: Okay, thanks.

SENATOR RAIKES: Other opponents, LB 763? How many opponents do we have? Okay.

MARK INTERMILL: Good afternoon, Senator Raikes and members of the committee. My name is Mark Intermill, spelled I-n-t-e-r-m-i-l-l, and I'm here today representing AARP-Nebraska. We are opposed to LB 763 as it is drafted.

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I am sympathetic to the concept of not protecting heirs. And we would be interested in working with Senator Engel and this committee, if you see fit to continue to work on this bill to try to reach that goal. One of the unintended problems that may come up as a result of that, though, and I think the question was raised earlier was that this may serve to be a deterrent to people actually seeking a homestead exemption. We may have some people who see the word "lien" and decide that they...who may need a homestead exemption...and may decide that they don't want to pursue one. What this bill is doing is shifting this program from a homestead exemption or a circuit breaker-type of a program to a property tax deferral program. And there are 24 states that have property tax deferral programs. But most of them, if not all of them, have some other sort of program like a circuit breaker for certain populations. And I think the reason that they do this is that there are a number of very modest properties that are covered by the homestead exemption program. And just to give you an example, we...in one county, out of 145 homestead exemptions granted, 33 of the properties were valued under \$15,000. A lien on a property of that value may wind up costing more to administer than you will realize in terms of the benefits from the program or the recovery. So a number of states have looked at low value or low-income individuals as retaining the circuit breaker-type of a program in order to...those are the individuals who need the program the most, and we want to be sure that they continue to apply for the program. The other issue that I mention is just, and this was alluded to earlier in questions, was that this bill as drafted is applied when the property is sold or transferred. And a lot of people who sell property who are receiving homestead exemptions may be doing so to move into a long-term care setting. What this basically does, if the lien is imposed at sale, that would reduce the amount of resources they would take into that long-term care setting. Four years ago I know that we looked at how long it takes to spend down if you are a private-pay resident of a nursing facility, and it's about 14 months. After six months in a nursing facility if there is no likelihood of a person going back into the community, the property is sold. If there is a lien imposed at that time, that probably reduces the period of time that a person is paying privately and shortens that spend-down period. So, in closing, we do oppose the bill as drafted. As I said, we are sympathetic

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to the idea of not using this program to benefit heirs, but I think there are some things that we need to take a look at in the bill before we can say that it does that and does that efficiently.

SENATOR RAIKES: Okay, thank you, Mark. Questions? Questions for... Thank you for being here today.

MARK INTERMILL: Thank you.

SENATOR RAIKES: Any other opponents to LB 763? Neutral testimony. Mr. Hallstrom.

ROBERT HALLSTROM: Senator Raikes, now Senator Landis, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers association in a neutral capacity. The NBA's concerns with the bill--and I guess I shouldn't call them concerns; we just need to get some changes made to take care of our issues--have to do with the application of the lien against the property during the lifetime of an individual who may be eligible for the homestead exemption. As we read the bill, the lien would be placed against the property on an annual basis and will interfere or impede the ability, in our opinion, of that individual to either get things like home equity loans or perhaps reverse mortgages which have become a handy tool for the elderly who need reverse mortgage-type of application in order to continue to reside in the home. If there is a lien against the property during the lifetime, that is either going to eliminate the ability of an individual to get that type of loan or will reduce the amount of funding, for example, that they may qualify for under a reverse mortgage. We have visited with Senator Engel. I have provided him with some sample language that we could use for proposed amendments. We have talked about the fact of whether or not an alternative to placing a lien against the property during the lifetime would be to follow the approach that we have with the Department of Health and Human Services on the Medicaid side for medical assistance programs in terms of allowing a claim against the estate that is held in abeyance until after the death of the individual, in this case who may have been receiving the benefits of the homestead exemption, so that instead of placing a lien against the property, it would be more like the medical assistance in that there is just a

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claim against the estate if there are assets left over to claim against. The other aspects that we have talked about are simply providing an outright priority for any type of lien that is secured by the homestead property. One example would be whether that lien is attached prior to or subsequent to the establishment of the lien under this law relating to the homestead exemption, that you would still give individuals the right to freely have loans against the property, liens placed against the property that would retain their priority status, vis a vis this new lien that's being created. The other aspect is perhaps considering that the attachment of the lien, if it occurs at all, only occurs contemporaneously with the sale so that as long as the individual was residing in the home, the lien would retain its priority. A lender looking at the record would say it is free and clear. We know that we can file in advance of the sale or the transfer, and therefore they would be protected and the individuals would be able to freely get their lending requirements taken care of. So there are some of the aspects that we have shared with Senator Engel and would share with the committee in moving forward on this legislation.

SENATOR LANDIS: Thank you, Mr. Hallstrom. Are there questions? Senator Raikes.

SENATOR RAIKES: Again, it sounded to me like important but technical?

ROBERT HALLSTROM: Yeah. We don't take any position on the policy aspects of the issue, Senator. We'll leave that to the committee.

SENATOR RAIKES: Are there unintended victims of this kind of a program?

ROBERT HALLSTROM: I don't believe so, in visiting with Senator Engel and as I read the bill, Senator, I think it's simply an issue similar to medical assistance, that if there are monies available, in this case if there is a house available against which the lien at some point attaches, that you'll take the money up-front before the balance is passed on to the heirs. In this case, we were really appreciative, at least as far as it went with the amendment that Senator Engel passed out to the committee, because that

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references and reflects that if and when it is sold before the state steps in to recoup its monies for the homestead exemptions that have been granted, the closing cost and the cost of any debts that are secured by the homestead property will be taken care of first. That takes care of most of our issues with the bill. The one reason why we want the priority status for the lien is that the bill is coupled with or tied to both the sale and the other transfer. You can have situations where an individual has the property transferred to them by inheritances. If there is a death, for example, there is no sale, there is no proceeds from which to realize the recoupment of the cost on behalf of the state, but yet that lien is going to be out there. So we want to make sure if we've made a lien to the individual during their lifetime that that is going to be taken care of and continue its priority.

SENATOR RAIKES: On the other hand, if I want a new hot tub in my house, I just put a lien on my parents' house to cover the cost of my new hot tub?

ROBERT HALLSTROM: There could be some issues of that nature, Senator, you know. I talked to Senator Engel about that very issue that there are probably some potentials in that not always when you get a loan and get cash...you know, if you've got the cash and you had the cash, you would replace it and you would have it in your pocket or in your bank account. If you actually put an investment into the home, it might just as well be a furnace, too, which would serve a valuable aspect, but neither one of those may increase the dollar value of the ultimate sales proceeds commensurate with the amount of the loan that you've placed against the property. I think the committee, and I've talked to Senator Engel about this. You know, in looking at what the Medicaid assistance program does in waiting until the time of death for their claim against the estate to come into being, they provide protections for if there is a spouse or if there is a minor or a disabled child still residing in the house, those may be policy issues to take a look at as to whether or not similar types of protected categories ought to apply in this particular situation. But, again, that's far afield from where the bankers need to be involved.

SENATOR LANDIS: Questions for Mr. Hallstrom? Thank you,

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LB 763

Bob.

ROBERT HALLSTROM: Thank you, Senator.

SENATOR LANDIS: Other neutral testifiers? Senator Engel to close.

SENATOR ENGEL: I would like to. Chairman Landis and members of the committee, I appreciate you hearing my bill today. And I would like to make a few comments. One is how this idea came about. About a year ago I was having a discussion with a realtor in South Sioux City, who happened to be a county commissioner, and we were discussing these situations. And that's how this was...this little idea was born, and to me it sounded like a very good idea. And, again, we don't want to penalize anybody that deserves homestead exemptions--the advantage of homestead exemptions. But we do...I do believe, and I think others probably, that I don't think we should be subsidizing their estate, so to speak. So that's why I invited someone from the banking profession. I invited someone from the counties to come appear here too with their, either pro or con or neutral, whatever, so it could all come before the committee because I know the bill itself, as presented, isn't perfect. But we can make it as close to that as we can. And in talking to, as far as talking to Cathy Lang, the Property Tax Administrator, and then Mary Jane Egr, they feel there is an avenue, however they will work on an avenue where this process could take place without an undue burden on the county treasurers. And so with that, I would certainly work with these people that are having these concerns, and the gentleman from AARP; we talked to him earlier; and these concerns, if they could be worked out. But like I say, as far as, I can't see where there is going to be a real hardship on those people that the homestead exemption is intended for. If there was, I would not present this because I've always been an advocate for anybody that deserves help. And so with that, I would ask that you advance LB 763 to General File and would be certainly working on all these...

SENATOR LANDIS: Thank you, Pat. Let's see if there are questions, Senator Engel? Thank you very much for an interesting idea.

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SENATOR ENGEL: And thank you very much.

SENATOR LANDIS: Appreciate the good hearing. Next testifier for the next bill will be Adrian Smith, would it not? Come on up, Senator Smith. Let's just check, how many are here to testify in favor of this measure, Senator Smith's bill? In opposition. Neutral. All right, Senator Smith.

LB 723

SENATOR SMITH: Thank you, Mr. Chairman and members of the Revenue Committee. I will promise to be brief. I do promise to be brief. My name is Adrian Smith, A-d-r-i-a-n S-m-i-t-h, here to introduce LB 723. LB 723 would amend the Nebraska Revenue Act to establish a process to review and adjust Nebraska's sales and use tax rate so it is competitive with other states. The goal is to move in phases to place Nebraska's sales and use tax rate within the 20 lowest tax rate states--basically a little better than in the top half. This phase-in would take place over a period of five years, beginning on January 1, 2006. Section 4 requires the Department of Revenue to annually complete a nationwide state comparison study of sales and use tax rates. The department would provide the comparison report using the rates in effect on January 1 of such year to the Chair of the Revenue Committee and the Governor by September 1 of each calendar year. And Section 5, based on the sales and use tax rates effective on January 1, 2004, the bill phases in the tax decreases to reach the rank of twentieth in the nation. By 2010, the state sales tax rate would be 4.9 percent and the combined state and local would be 6 percent. I know that it is kind of a technical thing here, but I think competitiveness is my objective, and we can use that to leverage our entire policy and bring in, I think, more revenue as we are more competitive. I know that some constituents, former constituents, have said that merely with the same salary, moving to Wyoming, they received a 30 percent pay increase by no state income tax, less sales tax, and lower property tax. And I know that there are various reports, for example, with property tax burden that it's measured different ways. I know I've seen reports that show that per capita property tax, for example, in Wyoming, is less than Nebraska. And I guess if you call

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the severance tax a property tax, which I guess they do in Wyoming, that totally skews the whole report, so I think that it's important to look a little deeper than some of those initial numbers reflect, but I know that the same \$100,000 house in Wyoming is taxed significantly less. So competitiveness is my objective, and I would take questions.

SENATOR LANDIS: Questions for Senator Smith? Senator Raikes.

SENATOR RAIKES: Adrian, you are dealing strictly with the rate, not with the base.

SENATOR SMITH: That is correct.

SENATOR RAIKES: So the base could be expanded to make up the revenue lost presumably.

SENATOR SMITH: There, yes.

SENATOR RAIKES: Okay. Thank you.

SENATOR SMITH: I have not introduced that amendment though. But, duly noted.

SENATOR JANSSEN: Is there anyone here?

SENATOR LANDIS: Thank you, Adrian. First testifier in favor.

NATALIE PEETZ: Mr. Chairman, members of the committee my names is Natalie Peetz, Peetz and Company, registered lobbyist for the Greater Omaha Chapter of Commerce, and I am here to testify in support of LB 723. I would like to thank Senator Smith for bringing this issue forward. This really came about as part of the longer term discussions that we have been having over the last year about how we grow Nebraska, what we need to do to do that, and, in particular, taxes, whether it is sales, income, or property, always seem to enter into the equation. So we appreciate Senator Smith putting this bill in. Is this the perfect answer? Do we get at it? No. But it certainly brings forth a bigger discussion of where do we need to be as we compare to other states on all taxes. And I think the next bill after this also goes toward that same discussion which we think is a

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real positive. With that, I think the letter has already been entered into the record and if you have any questions I would be happy to answer them.

SENATOR LANDIS: Are there questions for Ms. Peetz? Senator Raikes.

SENATOR RAIKES: But rate is more important than base.

NATALIE PEETZ: As we talk about sales tax or all taxes?

SENATOR RAIKES: Sales tax. That's...

NATALIE PEETZ: I think in terms of when you were talking about individuals and corporations, they are going to look at whatever they read on their computer in terms of tax comparisons, and they're going to be looking at rate.

SENATOR RAIKES: Okay. Thank you.

SENATOR LANDIS: Thank you very much, Ms. Peetz. Next testifier in favor. First testifier in opposition.

GARY KRUMLAND: Senator Landis, members of the committee, my name is Gary Krumland; it's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in opposition to LB 723. LB 723 proposes a major reduction in revenue to cities who have the local option sales tax at 1.5 percent. As you all know, the local option sales tax is put in and established by a vote of the people, generally, for general purposes, the government, but very often it is for a specific purpose, sometimes specifically for property tax reduction, sometimes for a specific project. By reducing the sales tax, you are reducing revenue available or you are frustrating the will of the people if they are dedicating the sales tax revenue for a specific project. It very likely would result in an increase in property taxes, and under the lid that is something that the city could do if they are not under the levy limit. We do think public policy on taxes should be set by the policymakers on the state and local level, based on the need of the governments rather than based on what other states do. And for those reasons we oppose LB 723.

SENATOR LANDIS: Questions for Mr. Krumland? Thank you,

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Gary. Appreciate it.

GARY KRUMLAND: Um-hum.

SENATOR LANDIS: Next testifier in opposition?

JACK CHELOHA: Good afternoon, Senator Landis and members of the Revenue Committee. My name is Jack Cheloha. The last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha, registering our opposition to LB 723. A lot of my comments would echo what the League of Municipalities states. As I looked at the fiscal note on here, I think maybe the impact of political subdivisions might even be a little understated, if you will. If Omaha's local option tax rate is 1.5 percent now, and ultimately had to drop down, at least as this bill dictates, to 1.1 percent, that's about a 27 percent decrease. And if we take in roughly \$110 million a year in property tax, I think I roughly calculated a loss of about \$30 million, and that's dramatic; that's too much. And for those reasons, we're opposed to the bill.

SENATOR LANDIS: Okay. Are there questions for Mr. Cheloha? Thanks, Jack. Appreciate it.

JACK CHELOHA: Thank you.

SENATOR LANDIS: Next testifier in opposition? Neutral testimony? Senator Smith to close.

SENATOR SMITH: I just wanted to note that my cell phone just rang. I got a text message that my busload of supporters broke down at the Wyoming state line.

SENATOR LANDIS: (Laughter) You know what happened was they were probably in Wyoming enjoying the good life out there, and getting some really cheap malted milks or something and low-cost hot dogs.

SENATOR SMITH: And spending money on their broader tax base. And I do want to address that and I understand what you are getting at, and I think that is a very important tool. I would assume that your argument is Nebraska's sales tax base is considerably narrower than, say, South Dakota, for example. I'm not asking you that, but I think that that

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is certainly worthy of the discussion, and it is a reflection on competitiveness or vice versa, and I think that's relevant.

SENATOR LANDIS: Questions for Adrian? Thank you, Adrian. Appreciate it.

SENATOR SMITH: Thank you.

SENATOR LANDIS: That closes the hearing and brings us to Senator Burling's bill. We're delighted to have Carroll back with us again. LB 542, the Tax Policy Reform Commission. How many are here to testify in favor? One, two, three. In opposition? None. And neutral? All right. Proponents, come on up and have a seat. Senator Burling, the floor is yours.

LB 542

SENATOR BURLING: (Exhibit 2) Good afternoon, Senator Landis and members of the Revenue Committee. Thank you very much for the opportunity to appear before you today. My name is Carroll Burling, B-u-r-l-i-n-g. I represent Legislative District 33, and I'm here today to introduce LB 542. As you know, sales, income, and property taxes are the main sources of income we have to provide government services in the state of Nebraska. LB 542 creates the Tax Policy Reform Commission to study, consider, and recommend tax structure reform in the state of Nebraska. The members of the commission will represent a variety of public and private sectors from across the state. The statement of intent highlights each sector represented and specifies each appointment. Most members will be appointed by the Governor from a list of names submitted by various legislative committees. I spoke with Governor Heineman and his staff on several occasions about LB 542, and he supports the concept of this bill and believes that the opportunity for the greatest results from this type of approach is now. In the State of State Address, Governor Heineman made several points about growing the economy of Nebraska. Some of those points were: thinking outside the box, being bold in our ideas and actions, and bringing our growth incentives into the twenty-first century. I submit to you that LB 542 is a bold effort to bring our tax code into the twenty-first

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century. There is no better tax policy than one built that is built on a fundamentally solid foundation designed to enhance our economic goals and objectives. To support those goals and objectives, it is desirable for our tax policy to be fair, simple, and dependable. Tax incentives, tax credits, and other such programs are good and often necessary, but they do tend to become political footballs drawing attention to the phrase, "the government giveth and the government taketh away." The Governor said we should engage in conversation regarding the future of Nebraska. This bill invites that conversation by creating a collaborative effort between the executive and legislative branches of our government. One might initially assume that inviting stakeholders to discuss tax structure reform could lead to conversations such as Russell Long's coined quotation, "Don't tax you, don't tax me, tax the fellow behind the tree." This committee knows better than anyone else the number of bills introduced every year to make changes in our tax code. When even minor changes are made, it has a ripple effect on the entire policy. Public policy that is developed or evolves over a number of years via a political agenda is often not the best policy. We currently have a tax structure that hasn't been significantly revised in decades. I'm convinced that as this legislative body prepares to welcome 37 new state senators over the next four years, that we are ready to welcome and listen to recommendations of this type of a commission. As you know, there have been various tax studies authorized by the Governor or the Legislature. And due to the fact that this proposal is a combined effort between the legislative and the executive branches, and the commission is made up of local citizens representing a wide range of tax policy expertise, I believe that this proposal has the potential of being more effective in producing positive results than previous studies. If we are afraid to look at ourselves because we are afraid of what we might find, then I would suggest that that alone is good reason to take a good, hard look at our tax policy and I believe this proposal is the best and most efficient way to do that. If each person in this room were to write a tax code, they would all be different. We will not all agree with all the recommendations of this commission. But I am willing to take that chance because I believe that when reasonable, knowledgeable people meet around a table and engage in an open and frank discussion, the resulting recommendations

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would most assuredly be an improvement over what we have now. In the past six months, I have read and heard a great deal about increased interest from other states regarding tax policy reform. And in Nebraska, with term limits now in effect, I believe timing is critical. Seventy-five percent of the current senators will not face voters again. Twenty of us will not return in January '07. The rest of that 75 percent are out in January '09. It is my hope that the reform commission such as I am proposing in LB 542 will be able to provide us with some recommendations regarding our tax code, which will enhance economic development sufficient to meet the needed jobs, goods, and services of our citizens. We currently have a collection of knowledge and experience which needs to be contributing to such an important project as to how funds for government services are collected. My plan in the bill allows the commission 18 months to meet and make recommendations to the Legislature for consideration in January '07 when 40 percent of our body will be freshman senators. So as you can see, to accomplish these goals, LB 542 needs to move quickly so that the commission can begin their work this summer. And I ask the committee to move LB 542 to General File. Now, there will be some proponents to follow me. If there is nobody here today to appear representing ag, it's because they are at the Governor's conference in Kearney. But I do have a letter of recommendation from the Nebraska Farm Bureau that I would like to have handed out to the committee members. (Exhibit 3) So thank you for this opportunity and I'll try to answer any questions.

SENATOR LANDIS: Thank you. Senator Burling has opened himself to questions. Thank you. We have several proponents. Let's move to the proponents. Senator Burling, of course you have the right to close.

DEE HAUSSLER: Chairman Landis, members of the Revenue Committee, my name is Dee Haussler, D-e-e, Haussler is spelled H-a-u-s-s-l-e-r. I'm the director of the Hastings Economic Development Corporation. And on behalf of the Hastings Economic Development Corporation, I'd like to go on record as being in support of the concept that Senator Burling has brought before you today and is trying to bring forward for this state. As you are aware, economic development efforts for our state and individual communities has become most difficult with the incentive packages that

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other states offer. For the past 17 years, Nebraska Legislature and our individual community organizations have been on the defense of trying to hang on to whatever economic development incentives we have to offer. If LB 542 offers a buy-in from all of the constituents across the state and helps identify and promote the needs of future legislation to help us keep competitive in our state and the efforts of growing and attracting business in Nebraska, then let's go for it. I visited with Senator Burling and know he has considered introducing this legislation for the past number of years. I know his interest in helping economic development for his district and for all of Nebraska. The concern for me is that the commissioner's report would not come until 2007. And in my opinion, I think that we as Nebraskans cannot delay the legislative proposals that have come before you just in the past month. Senator Baker's bill of LB 695, sales tax exemption on production equipment, is a must for this state. LB 312 from Senator Landis and LB 646, introduced by Senator Baker, also start putting us at a level playing field with surrounding states as economic development projects are considering this state. My concern is that if this has an opportunity to give our Legislature a wait-and-see attitude, then I would offer that we go forward with LB 542 as quickly as possible, as Senator Burling has said, so that we can get a report to us. I would not support any wait-and-see attitude. I don't think we, as a state, can afford that. We must act now. And each year our Legislature needs to act to help us stay competitive. With that, I would thank you for allowing me to come before you, and thank you also for allowing me to go in support of Senator Burling's bill. Thank you.

SENATOR LANDIS: Dee, there is a little disconnect between your testimony and what I heard Senator Burling to be saying to my ear. I'm going to give you a chance to react to it. I was interpreting Senator Burling's bill to say, look, we're going to look at the tax code generally. We're going to look at it from a variety of perspectives and we're going to see what recommendations there are. When I hear you, it seems to be, I want a...it would be good to create a forum in which we could get state buy-in for an economic agenda that included an updated package of tax incentives. There is a difference between those two. Senator Burling, I think, was saying, look, we're going to have a study that takes us where we want to go. And as I listen to you,

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you've got the end in mind. The end in mind is an updated body of tax incentives that the state would somewhat support, I mean, that would have buy-in.

DEE HAUSSLER: Yes.

SENATOR LANDIS: The distinction that I want to make is this: The tax incentives almost invariably wind up being, by their nature, as an incentive of a variation from an existing tax obligation. Here's the normal tax obligation and here's the special benefit created in a tax incentive, as opposed to the previous bill, which was tax climate--the taxes that everybody pays, the rates that everybody pays. But between those two, tax climate and tax incentive, in my ear, listening to you, you've already decided that one is more preferable than the other and that a body of tax incentives is the preferable thing, and that this creates a format for which we could get public buy-in to a twenty-first century package of tax incentives. I'm trying to replay...is that a fair characterization that I'm making, Dee?

DEE HAUSSLER: I'm not sure. (Laugh) Certainly, if our tax climate is such that we're competitive with our neighboring states at all of the times, then indeed we don't need any additional incentive packages to go over and above those, and rather foolish to do that. And I think, in Senator Burling and my conversations, that is indeed where we need to go. I wish we had this commission for the past 20 years so that we were reviewing it and not putting us in the predicament that we're in right now as being noncompetitive. In my field...

SENATOR LANDIS: Yeah, the commission has existed. It exists in the form of the Revenue Committee, and it's existed in an unyielding posture with respect to the existing tax incentive. We haven't had a serious look until this year at modifying that, and it has been one of closed-ranked, phalanx mentality of defending what we have, even as it has come gradually to be less and less effective.

DEE HAUSSLER: And it...

SENATOR LANDIS: I think the arms have been open for a long time to consider variations, but I do think the climate is

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different now, and something certainly needs to be done. I think on that you and I probably would completely agree.

DEE HAUSSLER: Very much so.

SENATOR LANDIS: Questions for Dee? Senator Baker.

SENATOR BAKER: Thank you, Senator Landis. I have a little bit different take in what you are saying on some of these bills, and I have one of them that you referred to. It's so critical we do something, you don't want to postpone doing something while we're looking at this tax study, is that not correct?

DEE HAUSSLER: I think that's where I'm truly coming from. I just don't think that we can stop and wait until 2007, and then 2008 after the report, we try to react to that. I just don't think that we can stop for two years in trying to get something done. We need to react now.

SENATOR BAKER: You are thinking we may be able to come to consensus now on some critical issues that we need to do, plus look at this.

DEE HAUSSLER: Oh, yes.

SENATOR BAKER: Okay. Thanks.

SENATOR LANDIS: Other questions? Thank you very much.

DEE HAUSSLER: Thank you.

SENATOR LANDIS: Next testifier in favor.

RON SEDLACEK: (Exhibit 4) Good afternoon, Chairman Landis and members of the Revenue Committee. For the record, my name is Ron Sedlacek. For the sake of the transcriber, that's spelled S-e-d-l-a-c-e-k. I'm here representing, today, the Nebraska Chamber of Commerce, and I've also been asked to sign in and to mention the Omaha Chamber of Commerce as supporters of LB 542, in addition to the State Chamber. Senator Burling approached the leadership of the State Chamber early on prior to, I believe, the meeting of the Legislature, describing his outline of a proposed study of our tax system. And when the bill was introduced, we

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immediately took that, with other issues that we felt would be of interest to our tax council, shared the information with them, and certainly they came down in voting for supporting this particular measure that would study the overall tax burden, the tax system in Nebraska, as part of what they called an ongoing conversation or an ongoing dialogue in that regard. And they felt that this certainly would help promote that dialogue going forward. In fact, one of the members observed, wouldn't it be nice if, or ideal if, as a group, a commission could come together and concentrate more on tax policy, as opposed to concentrating on tax politics. And that something truly might be fruitful in the result by taking a comprehensive look at our tax system. And certainly it depends upon the amount of depth that is going to be brought into this conversation or this dialogue. We would hope it's not superficial, but rather that it would be a comprehensive look so that we might arrive at a consensus as the type and kind of a modernized tax system might best fit Nebraska. We would certainly follow many other states that have already reviewed and revamped their tax climates. And so we would be supportive in that regard.

SENATOR LANDIS: Questions for...Senator Raikes.

SENATOR RAIKES: But, Ron, wouldn't it be the case that the groups you represent are sort of not wide open to however this thing might come out. Let's just do a study and however it comes out, why, that would be important addition to our knowledge base, and we go happily forward.

RON SEDLACEK: Well, that's always a possibility because you are dealing, as I was quoting someone else's comment, if they truly focus on tax policy and come out with that report, and that's when the tax politics probably comes back into play, and that's when it's before legislators considering what, you know, how to make the change or what changes they might be. There will be, obviously, besides the State Chamber, probably a lot of other groups that would find themselves not to be in a position of fully supportive of that study. There is...we have had studies before. We have the Syracuse tax study. And not a lot...you know, we don't want a study that just gathers dust on the shelf, either, which can certainly happen. You know, it's done; everybody puts their hands together and...it must be the

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Syracuse tax report. But at any rate, you know, the question becomes, then why did that happen or why did not very much happen in that particular study? Would this be any different? I can only speculate. Certainly, there were a number of elements in the Syracuse tax study that the State Chamber supported, and other elements we didn't. It talked about broadening the sales tax on services. Although it had a caveat in the study, if you have it there you'll note it, and that is business and business transactions should not be taxed. Did we look at the study and follow it in that regard? No. They always felt that an ultimate consumer services tax was probably the best way to do it, and they had other recommendations dealing with the unitary taxation and the formulation of that particular tax system. Again, it was a situation that eventually changed over time. But the question becomes, at least in my mind, if you have a study by third-party academics, which is fine, because you get hopefully a neutral-type of conclusion to that study in recommendations, but I have to wonder in the back of my mind whether or not, if you had a study by Nebraskans looking at our own tax system uniquely, and they still reside and participate in Nebraska politics, so to speak, will there be more accountability held? In other words, the study is accomplished. They don't just go home and leave the rest for implementation, but there will probably be a little bit more accountability as to what are the results of the study. I don't know if that's the case or not. Perhaps a result of those two studies should be blended or looked at as a whole. In another study, and that's possible, but certainly we're not going to oppose a study, or a study of an issue, and we would be supportive of it.

SENATOR RAIKES: Thank you.

RON SEDLACEK: A long answer to your question, but...

SENATOR LANDIS: In that answer, Ron, I take one of the pieces to saying, you know, there is a crucible by which policy gets pushed through the reality of politics.

RON SEDLACEK: Yes.

SENATOR LANDIS: This is the Maxwell or Syracuse statement, the very first recommendation Senator Baker is going to love: business purchases of machinery and equipment should

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be exempt. It came out after 775. LB 775 was basically a deal, a political deal, in which that exact recommendation was turned on its head so we could do a tax incentive program. The second one was, we should expand the sales tax on food to essentially luxury items, something that I can't recall that the business community has put foremost on their list of agenda, because generally that agenda has been other things rather than expanding the tax base to, in this case, luxury items. The third one is, in fact, the expansion of the sales tax base to services, which has been fought in the intervening years since 1988. The fourth is not discounting the purchase price of sales tax of a car by the trade-in value of a car. The fifth is the levying of property taxes on agricultural machinery and equipment, which I'm not sure about the State Chamber, but plenty of groups come in and oppose. Six, that we improve our accuracy of property tax assessments. I've been here for 15 years. The business community does not come in on the property tax assessment practices, generally speaking. The recommendation seven which is the corporate tax legislation moved to a sales-only formula should be repealed is exactly the opposite what we did. In fact, we did go exactly to a sales-only formula at the request of the business community to the extent that, in fact, policy gets pushed through politics. In fact, policy has been eaten up, chewed up, and spit out in the last 15 years by the reality of politics--by the reality of politics. What makes a study, another study...this one, by the way, costs us \$350,000...I just read you the seven most important recommendations, the whole thing, and you can't name more than one and a half that's been met or was supported generally by the community. The only thing that made things on that list happen was the exigencies of the economic demands over the last couple of years. Why is another study going to do us better than the third of a million bucks we spent to give us recommendations which we roundly ignored, us and the business community, at practically every turn?

RON SEDLACEK: Um-hum. Well, and I'm not prepared to talk about, you know, the specific items on the tax study I did mention, the services portion of it. And the study does...and as I acknowledge the study said that it should be extended to ultimate consumers, but it did have the caveat, don't tax, don't pyramid--don't tax business and business transactions--which was ignored, as you say. The

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same...with the unitary tax, on the other hand, that is the three-factor formula versus sales only. That's pretty standard recommendation in any tax study when you're dealing with...particularly, when you are dealing with multinational corporations, multistate corporations who would say we want a uniform system in that regard. The three-factor formula was based essentially with...and the multistate tax commission has always been supportive of it and it was based on, essentially, what I would call, rust-bucket politics where the industrial base was being lost in the upper Midwest and some of the Northeast, where the three-factor formula, where they had those headquarters, they had property personnel and sales were exported. It was a good formula for them. For Nebraska, on the other hand, where we could actually get people here and their sales would be...it would be only sales as a factor, it was an attractive incentive. And the Legislature looked at it from that angle, what best fits Nebraska. And that was, I guess part of my initial testimony is, what can we do to modernize the tax system that best fits Nebraska. And that's...I'm trying to answer your question in that regard. I don't think it hurts to once in awhile, every so often, sit back, if it's possible, and discuss and to have a dialogue on the overall tax system to formulate a plan, or at least targets. Obviously, not all are going to be met. Studies, by their very nature and their results, are controverted. There always will be another idea or a better idea, or things that are not considered, or there will be parochial interests that may carry the day just to get this meeting postponed at a reasonable hour. That's all the human factor.

SENATOR LANDIS: Thank you, Ron. Are there questions for Mr. Sedlacek? Thank you, Ron. Appreciate it.

RON SEDLACEK: Thank you.

SENATOR LANDIS: Next testifier in favor.

DENNIS RASMUSSEN: Chairman Landis, members of the committee, I'm Dennis Rasmussen, R-a-s-m-u-s-s-e-n, registered lobbyist for the Iowa-Nebraska Equipment Dealers Association. It's very interesting what I've listened here, Mr. Chairman. And there is one word that I have kind of dictated that's forgotten. It's in the dictionary, and it's the word "listen." Now the results won't do any good if we

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don't implement them. And you are 100 percent correct that we move in the political world here. But by the same token, the makeup of this committee, which we support, will make for some very interesting sessions at their meetings when everybody is...

SENATOR LANDIS: I think you have a gift for understatement, Dennis; well said.

DENNIS RASMUSSEN: But I'll never forget when you were Chairman of the Banking Committee, Bill said one day, now, Denny, we'll find out whose ox is getting gored, and it will. But it...I think probably, and we're very...and I think, you know, I'm on the NPPD board. We do studies. I always tell them, if we're going to do them, don't let them get dust on the shelf because what's the use of doing them. But I do believe that Senator Burling brought up some good points. You're going to have a lot of new members drift in here. And another thing, too, that I've noticed through my years around here is that if you can get the people interested enough, some changes do happen, by golly. And I think the...on the north door, when it says "The salvation of the state is the watchfulness of its people," I think it's very well said, but not always kept.

SENATOR LANDIS: Thank you for that observation. Are there questions for Senator Rasmussen?

DENNIS RASMUSSEN: Thank you.

SENATOR LANDIS: Thank you, Dennis. Next testifier in favor. Following Mr. Hallstrom, how many other testifiers are there in favor? Are there opponents? Is there neutral testimony? Then we'll go back to Senator Burling following this testifier.

ROBERT HALLSTROM: Senator Landis, members of the committee, my name is Robert J. Hallstrom. I am appearing before you today as a registered lobbyist for both the Nebraska Bankers Association and the National Federation of Independent Business, in support of LB 542. A lot of people would say what harm can come from a study? I guess that's part and parcel of what some may come to the table with, but I think there are recent indications with the Water Policy Task Force, for example, where very contentious issues over the

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years, much like tax policy, have been addressed through the combination of the efforts and the discourse that occurred between, in that case, a somewhat novel approach of 49 individuals getting together and trying to make policy--very symmetrical to our Legislature. But I think there's the history of that issue alone, the fact that there can be generally no harm come from a study, unless, of course, it's Initiative 300, in which case we have different points of view on that very issue, have led our groups to come to the table and think that we should go forward with this type of commission. We can have a plate or a menu of tax policy issues that are discussed thoroughly by the groups that are promoted to be involved under LB 542. Obviously, the politics of the day will come back into play to determine what may or may not be implemented from that list or menu of ideas, but particularly with term limits upon us and the loss of institutional memory, I think one advantage of this commission may very well be that our current Chairman of the Revenue Committee will be a sitting member. So perhaps that's an indicator that we should move more quickly. And having stroked the Committee Chairman enough for the day, I'll just... (laugh).

SENATOR LANDIS: (Laugh) Well, that's the destruction of the committee right there. That...try another track, Bob. I don't think that's going to be very attractive.

ROBERT HALLSTROM: Well, I know, and I hated to make that public in case nobody had noticed. I would note that we do have an E & R amendment on page 6, line 9, of the bill. I think we would probably want to hold more than one hearing throughout the state. But with that, I'll close my testimony.

SENATOR LANDIS: Questions for Mr. Hallstrom? Thank you, Bob. Appreciate it.

ROBERT HALLSTROM: Thank you, Senator.

SENATOR LANDIS: Senator Burling, come on up to close. And by the way, we'll have a nostalgia for you today since you'll be our last testifier for the entire session.

SENATOR BURLING: Thank you.

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SENATOR LANDIS: This is the last bill and you're our last chance to take testimony.

SENATOR BURLING: All right. Well, then, you are prepared to stay awhile, I assume, then.

SENATOR LANDIS: Absolutely.

SENATOR BURLING: Tomorrow is a recess day. I thank you for hanging around today for this bill, and I appreciate those that have testified. And Ron brought up the Syracuse study, and you have it there, and we discussed that. And there have been other studies, the Syracuse study, the 3-R Commission. I would like to, for just a few minutes here, direct our attention back from what I think I heard the discussion, thinking about should I or should I not support this concept because I wonder what the results will be. I'd like to get off of that if we could and get back to what the proposal is because, in the Syracuse study, that was a study recommended by the Revenue Committee at that time, and was put out for bids. And Mr. Mike Wasylenko directed the six researchers from Syracuse University to conduct this study. And Mr. Wasylenko said, according to my information, a commission structure would have helped in several ways. It would have raised the level of debate among a broader group of people who are in a position to think creatively, would have laid out the issues for the Legislature to view more objectively, and would have served the crucial functions of education and consensus building around their recommendations. That was missing in the Syracuse study. The 3-R group, commissioned by the Governor; there were senators involved in that, but not citizens from around the state that could think creatively, which he speaks of here. So I think this proposal is different than anything we've tried before, in that I propose three senators on it, plus appointments made by the Governor. I think we will get much better representation of where our citizens are thinking about our tax policy than we have from any former study. My idea is that they would look at demographics. I think it is important in Nebraska, especially, when we talk about tax policy. Again, my thinking would be that it would be...their recommendations would be revenue neutral. I'm not looking to create any facade here that would circumvent any process of increasing revenue or decreasing revenue. And as I said in my opening,

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you know, I'm willing to take the chance of maybe they won't come out with a recommendation that I like. But I think they'll come out with a recommendation best for the state, and that we should take a look at that. We can't dictate to future legislators what to do regarding tax policy. But I think that a recommendation from a commission like this would return us back to a foundation that we've strayed from. You mentioned it, I think, Senator Landis, and you all know, like I said in my opening, that when we have legislation proposed that exempts something, you people struggle with where do we make that up. Where do we go to get that if we exempt this? Hopefully, this commission would address that and come back and say we recommend this, and, oh, by the way, if this is going to happen, then we need to do this. Those are the kinds of things that I envision could come out of this commission. And with the executive branch and legislative branch both working on this commission, I think the gap that we've had from other studies between the study and the Legislature would be filled and could carry on with any legislation that they would like to see introduced to implement the recommendations. I have recommended a commission of between 25 and 30 members from certain areas of interest, and I would be very willing to work with the committee if they want to amend anything in here. Basically, I'm putting the idea out there. We have already talked about the importance of timing. The Governor talked about it; I've talked about it; testifiers have talked about it. If we're going to do it, I think this is the right time to do it, and I would just be willing to work with the committee on any concerns that they have that I have put in the bill, whatever we can work together on. Are there questions?

SENATOR LANDIS: Questions? Thank you, Senator Burling. Appreciate it very much.

SENATOR BURLING: Okay, thank you.

SENATOR LANDIS: That closes our hearing for us today. Thank you very much for coming, ladies and gentlemen. I anticipate we'll be going into an Executive Session, which is done ex parte, and if you would step towards the door, we would be grateful.